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Sixty-fifth session
Agenda item 131 of the provisional agenda*
Programme budget for the biennium 2010-2011

After-service health insurance: medical and dental reserve funds

Report of the Secretary-General

I. Introduction

1. The Secretary-General, in his report on liabilities and proposed funding for after-service health insurance benefits (A/64/366) recommended, inter alia, approval for the United Nations to move away from financing such benefits on a pay-as-you-go basis and to adopt a funding strategy ensuring that adequate funds are systematically put aside to meet the cost of current and future liabilities. Three funding alternatives were set out in the report. The recommended alternative included provision for a one-time initial infusion of funds, of which $83.1 million was to be transferred from the existing medical and dental reserves.

2. Having considered the above-mentioned report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions (A/64/7/Add.4), the General Assembly, in its resolution 64/241, requested the Secretary-General to continue to validate the accrued liabilities with the figures audited by the Board of Auditors and to submit to it at its sixty-seventh session a report thereon, addressing also additional issues related to managing after-service health insurance liabilities.

3. In addition, the General Assembly, in section XI of its resolution 64/245 on special subjects relating to the proposed programme budget for the biennium 2010-2011, decided to revert to the issue of the $83.1 million from the medical and dental reserve funds included in the proposal of the Secretary-General on the funding of after-service health insurance liabilities and requested the Secretary-General to provide the Assembly at its sixty-fifth session, with information on the composition of those reserve funds. The present report provides the additional information requested in resolution 64/245.

* A/65/150.

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II. Health insurance reserve funds

4. The United Nations maintains health insurance reserves as premium stabilization reserves for each of its self-insured plans essentially in order to manage large fluctuations in premium requirements. Those reserves are used to smooth out premium increases so that unusually high claims experienced in a given year do not lead to unusually high premium increases. The health insurance reserve funds also serve to meet unanticipated catastrophic claim requirements, when needed. The reserve balances represent an amalgam of contributed funds and related investment income that have accumulated over a period of more than 20 years, based on contributions made by staff and retirees; the United Nations and other participating United Nations entities[1] (collectively "plan contributors") under various types of assessed and extrabudgetary funds and under various health plans.

5. The medical and dental reserves continue to be maintained in accordance with prudent financial practices, taking into account insurance industry standards which provide that health insurance reserves should be equivalent to about three to four months of claims. Those reserve balances are the result of health insurance contributions made by plan contributors at different weightings over time, based on staffing levels and the programme of work of the related United Nations entities. They have increased when health claims were lower than expected, and from interest income on reserve balances; and they have decreased in years when claims were higher than expected. For example, in the case of the Empire Blue Cross reserve, the balance has been depleted to below the industry standard because of the claims experienced in recent years.

6. Health insurance reserve accumulations under the self-insured Medical Insurance Plan for Locally Recruited Staff at Designated Duty Stations Away from Headquarters are attributable to contributions made by the United Nations and its covered staff and retirees since the inception of the plan, in 1987, whenever health claims were lower than premium collections. Covered staff over the years have worked under the regular budget (primarily local staff at the regional commissions and the special political missions) and extrabudgetary funding (primarily local staff at the United Nations Office at Nairobi, the United Nations Environment Programme and the United Nations Human Settlements Programme (UN-Habitat)) and in peacekeeping operations. The Medical Insurance Plan reserve therefore represents contributions that were received from all those funding sources, with the amounts attributable to a given fund type dependent upon the staffing distribution, which has changed over time, plus related investment income.

III. Composition of the $83.1 million

7. As noted above, health insurance reserve amounts under each health insurance plan have accumulated over many years from plan contributors representing multiple funding sources. While the reserve amounts are attributable to these funding sources, it is not possible to accurately allocate the reserve fund accumulations among the individual funding sources because staff of all fund types have participated in the plans at various weightings over time, as influenced by the

[1] Primarily the United Nations Development Programme, the United Nations Office for Project Services, the United Nations Population Fund and the United Nations Children's Fund.

programme of work of the United Nations and the participating funds and programmes, and because health insurance data have not been, and are not, maintained by funding source. In addition, reserve fund accumulations have differed from year to year and from plan to plan, with individual staff and retirees having at times moved their coverage between the available plans owing to changes in their duty station or residence or for other reasons. Staff have also transferred employment between the United Nations and the funds and programmes while continuing their coverage under the health plans administered by Headquarters. These elements further complicate the issue, making an accurate allocation of reserves funding source impossible.

8. The primary purpose of the health insurance reserve funds is for premium stabilization. This means that the reserves, by their very nature, are applied to existing plan contributors in accordance with current sources of funding. For that reason, the United Nations uses a "premium holiday" to periodically distribute excess reserve amounts to all funding sources on the basis of current plan participant data. This process does not take into account the historic contribution levels of the various funding sources. Instead, by using a premium holiday, all funding sources share in the distribution of reserve funds on the basis of the distribution of current health insurance plan contributors. This has been and continues to be considered the most equitable means of returning excess health insurance reserve funds to all the funding sources. As such, it is contemplated that this approach should be used to return a part of the $83.1 million portion of the health insurance reserve funds to the various funding sources before the end of 2010.

9. Given the lack of a more accurate allocation process, the use of a premium holiday is considered the best approach for determining the composition of health insurance reserve accumulations. By using the approach outlined above, the estimated composition of the $83.1 million of reserve funds across funding sources is as set out below (see annex). It should be noted that the $83.1 million does not include any portion of the Empire Blue Cross reserve owing to the very low level of that reserve.

Annex

Estimated composition of $83.1 million health insurance reserve amounts

(Thousands of United States Dollars)

		Composition by funding source						
		Staff and retirees' share (Contributions by active and retired staff of the United Nations and other entities of the common system	*Organization share (United Nations and others)*					
Health plan	*Composition by health plan*		*Regular budget*	*Peacekeeping accounts*	*Extrabudgetary*[a]	*Total United Nations*	*Other United Nations entities*[b]	*Total Organization Share (United Nations and other entities)*
Aetna	32 700.0	8 992.5	13 864.8	2 877.6	1 536.9	18 279.3	5 428.2	23 707.5
Cigna	1 400.0	477.5	469.6	121.8	74.2	665.6	256.9	922.5
Van Breda	14 000.0	7 000.0	1 579.2	1 985.2	406.0	3 970.4	3 029.6	7 000.0
Medical Insurance Plan	35 000.0	7 630.0	6 062.0	18 641.0	2 667.0	27 370.0	0.0	27 370.0
Total	**83 100.0**	**24 100.0**	**21 975.6**	**23 625.6**	**4 684.1**	**50 285.3**	**8 714.7**	**59 000.0**

[a] Includes trust funds, technical cooperation and special funds.

[b] Primarily UNDP, UNFPA, UNOPS and UNICEF.

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Sixty-fifth session
Item 136 of the provisional agenda*
Human resources management

Activities of the Ethics Office

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution 60/254, entitled "Review of the efficiency of the administrative and financial functioning of the United Nations" in which the Assembly requested the Secretary-General to report annually on the activities of the Ethics Office and the implementation of ethics policies. The report also includes information on the activities of the United Nations Ethics Committee, including a review of any complex ethics issues dealt with by the Committee, where deemed relevant as mandated under General Assembly resolution 63/250 on human resources management.

The present report covers the period from 1 August 2009 to 31 July 2010.

* A/65/150.

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Contents

		Page
I.	Introduction	3
II.	Background and general information	3
III.	Activities of the Ethics Office	8
	A. Advice and guidance	8
	B. Training, education and outreach	9
	C. Protection of staff against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations	12
	D. Financial disclosure programme	14
	E. Standard-setting and policy support	18
IV.	United Nations Ethics Committee and Ethics Network	19
V.	Future directions of the financial disclosure programme	21
VI.	Conclusion and recommendations	23

I. Introduction

1. The present report, the fifth since the establishment of the United Nations Ethics Office in January 2006, has been prepared pursuant to General Assembly resolution 60/254, paragraph 16 (i), in which the Assembly requested annual reporting on the activities of the Ethics Office and the implementation of ethics policies, for the consideration and decision of the Assembly, as appropriate, under the agenda item on human resources management.

2. The report is also submitted in response to General Assembly resolution 63/250, entitled "Human Resources Management", in which the Assembly, having welcomed the establishment of the Ethics Committee, requested the Secretary-General to include in his report on the activities of the Ethics Office, information on the activities of the Ethics Committee, including a review of any complex ethics issues dealt with by the Committee, if deemed relevant.

3. In relation to the United Nations Ethics Committee, and in accordance with section 4.3 of Secretary-General's bulletin ST/SGB/2007/11, entitled "United Nations system-wide application of ethics: separately administered organs and programmes", a summary of all cases referred to the Chair of the Committee is included in the present report.

4. Pursuant to a recommendation of the Advisory Committee on Administrative and Budgetary Questions, as contained in its report (see A/62/7, para I.17), that the General Assembly request the Secretary-General to conduct an in-depth analysis of the relative advantages and disadvantages, including costs, of conducting the financial disclosure review in-house as compared to the current outsourcing arrangements, such an analysis was conducted during the period 2009-2010. The outcome of the analysis and related considerations regarding the future directions of the financial disclosure programme are presented in section V of the present report.

II. Background and general information

5. The Ethics Office was established, upon approval by the General Assembly at the 2005 World Summit (see General Assembly resolution 60/1, para. 161 (d)) to assist the Secretary-General in ensuring that all staff members observe and perform their functions consistent with the highest standards of integrity required by the Charter of the United Nations through fostering a culture of ethics, transparency and accountability. The main areas of responsibility of the Ethics Office are as follows:

(a) Developing standards, training and education on ethics issues, in coordination with the Office of Human Resources Management and other offices as appropriate, including ensuring annual ethics training for all staff;

(b) Providing confidential advice and guidance to staff on ethical issues (such as conflicts of interest), including administering an ethics helpline;

(c) Administering the Organization's financial disclosure programme;

(d) Undertaking the responsibilities assigned to it under the Organization's policy for the protection of staff against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations;

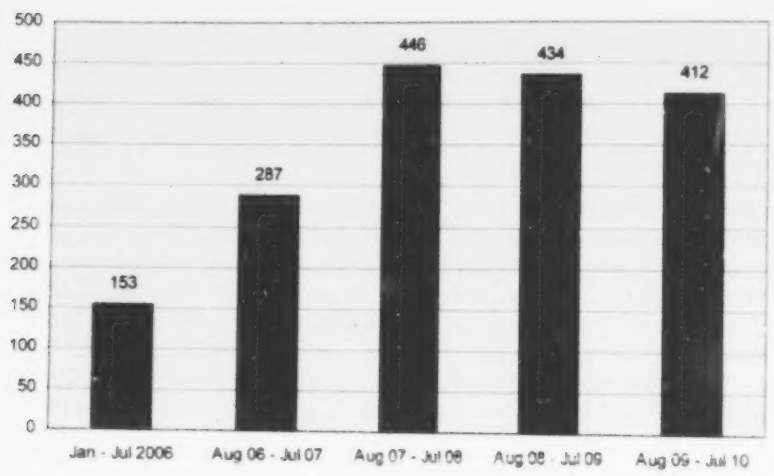
(e) Such other functions as considered appropriate for the Office.

The Office commenced operation on 3 January 2006.

6. A new director of the Ethics Office, Joan Elise Dubinsky, was appointed by the Secretary-General on 19 July 2010. The Secretary-General expressed his deep appreciation to the departing Director, Robert Benson, for his leadership role and his contributions to the establishment and effective functioning of the Ethics Office.

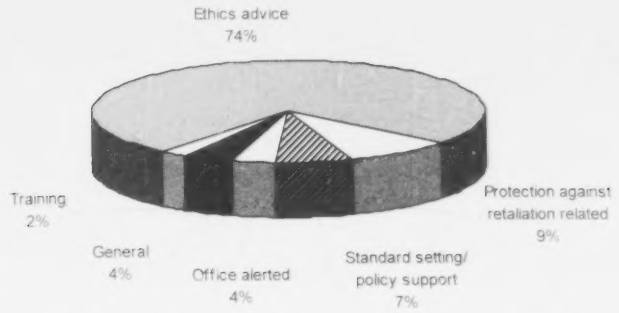
7. From 1 August 2009 through 31 July 2010, the Ethics Office received a total of 412 requests. Figure 1 shows the comparison of the corresponding figures for the period from 2006 to 2010.

Figure 1
Volume of requests by reporting cycle
(January 2006-July 2010)



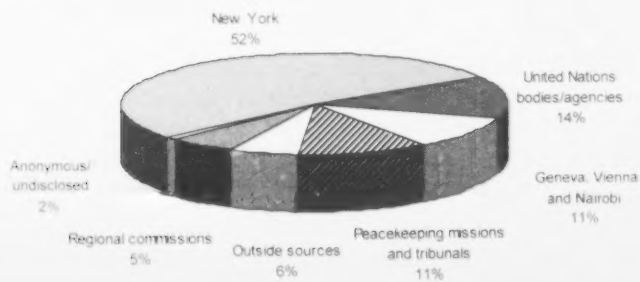
8. Requests received covered a broad range of ethics issues, from general ethics advice, training, policy review and advice, to standard-setting support and other general information. General ethics advice from United Nations staff members accounts for the majority of demand for the Ethics Office's service, as reflected in figure 2.

Figure 2
Volume of requests by category
(1 August 2009-31 July 2010)



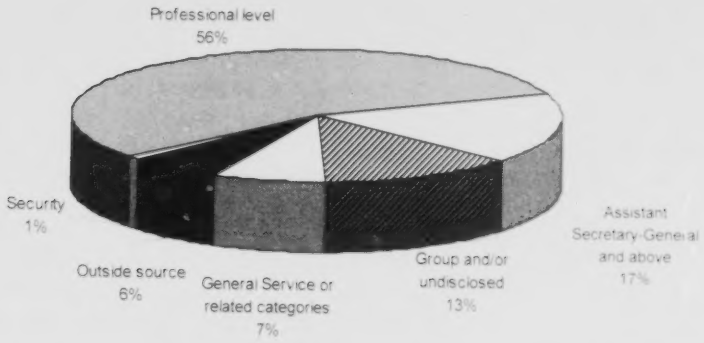
9. Requests for Ethics Office services continued to come from diverse geographical and organizational sources, as illustrated in figure 3 below. The majority of requests came from offices and personnel based in New York (52%), although with a decrease of 3 per cent as compared to the prior reporting period. Requests from other parts of the Secretariat remained at comparable levels. There was in fact a 3 per cent increase in requests from United Nations agencies. This may be attributed to the fact that other United Nations entities have been in the process of setting up their own ethics offices or developing and/or reviewing their policies on issues relating to ethics and integrity. These United Nations entities have sought assistance from the Ethics Office in relation to their activities in a broad range of areas, from standard-setting and training, to operational activities.

Figure 3
Volume of requests by source
(1 August 2009-31 July 2010)



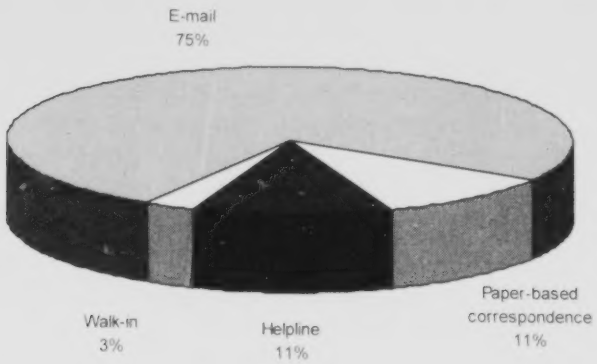
10. In terms of the professional grade of enquiring personnel, the Ethics Office delivered its services to staff and management at various levels across the Secretariat. Compared to the last reporting cycle, there was a 7 per cent decrease in requests from professional staff and an increase of 10 per cent in requests received from groups or undisclosed sources. Requests for the Ethics Office's services from senior managers at the Assistant Secretary-General level and above have also increased by 3 per cent, which suggests a higher level of awareness on the part of senior managers of issues relating to ethics and integrity and of the services provided by the Ethics Office.

Figure 4
Volume of requests by grade
(1 August 2009-31 July 2010)



11. With regard to the mode of contact, requests via e-mail continue to make up a major part of the demand volume (75 per cent), representing a significant increase of 11 per cent as compared to the last reporting cycle. Paper-based correspondence and requests through the Helpline each account for 11 per cent. Notably, walk-ins declined by 8 per cent, which may be a result of the relocation of United Nations offices at Headquarters.

Figure 5
Volume of requests by mode of contact
(1 August 2009-31 July 2010)



12. The Ethics Office attaches great importance to information security. Information security is fundamental to effective functioning of the Office, in view of the confidential nature of its work and the information it handles. The Ethics Office was included in a horizontal audit of data privacy in the United Nations Secretariat, conducted by the Internal Audit Division of the Office of Internal Oversight Services (OIOS) in the period 2008-2009. The objective of the audit was to ensure that the Secretariat has adequate controls in place to protect the confidentiality and integrity of sensitive information related to employees, representatives of Member States and other individuals.

13. The Joint Inspection Unit carried out a review entitled "Ethics in the United Nations system" (JIU/Rep/2010/3). The review followed up on an earlier report of the Joint Inspection Unit on oversight lacunae in United Nations system organizations in order to determine progress, lessons learned, and best practices in establishing and implementing the ethics function throughout the United Nations system. The work and functions of the Ethics Office were assessed by the Unit in the process of conducting this review. The Unit noted in the above-mentioned report that the Ethics Office met the standards suggested by the Unit and that it provided the benchmark for other ethics offices in the United Nations system. The United Nations Secretariat is reviewing the recommendations presented by the Unit in its report with a view to enhancing the effectiveness of the ethics function, as appropriate.

14. In May 2010, OIOS initiated an internal audit of the financial disclosure programme, including information security considerations. The objectives of the audit are to assess the adequacy and the effectiveness of internal controls in ensuring compliance by staff members obligated to file annual financial disclosure/declaration of interest statements, and efficient and effective implementation of the financial disclosure programme.

III. Activities of the Ethics Office

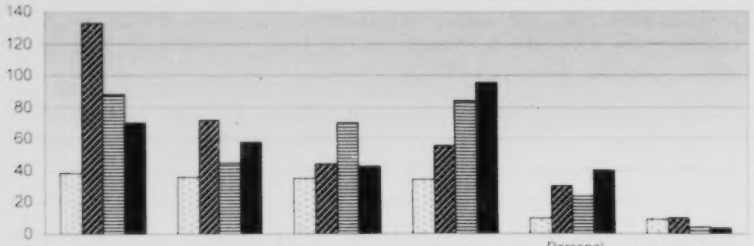
A. Advice and guidance

15. The provision of confidential advice and guidance is one of the most important risk prevention functions of the Ethics Office. This individualized advisory service helps staff maintain high professional and ethical standards, as well as manage situations that could give rise to conflicts of interest. During the reporting period, staff members contacted the Ethics Office, whether confidentially or anonymously, to discuss ethics-related concerns involving actual or apparent conflicts of interest arising from outside activities, the acceptance of gifts, honours or favours, personal investments and assets, and other diverse employment-related concerns. Staff also sought clarification of the regulations, rules and standards of the Organization. Ethics advisory services can involve clarifying the standards of the Organization concerning prohibited or restricted activities. Ethics advisory services may also assist staff in addressing complex situations that are not specifically dealt with in existing regulations by applying the values of the Organization and interpreting the regulatory framework. As a result, staff members are better able to make appropriate choices consistent with the values and rules of the Organization. The most frequent enquiries relate to staff member requests to engage in an outside activity while protecting their status as international civil servants responsible only to the Organization.

16. The Office does not replace existing mechanisms for reporting misconduct or resolving grievances. Rather, it encourages staff members and management to seek confidential advice on how to handle potential conflicts of interest and other ethical dilemmas related to work. To clarify these distinctions, especially in the light of the introduction of the new internal justice system in July 2009, the Office, in collaboration with all relevant entities, is in the process of finalizing a handbook whose working title is "A staff member's handbook on obtaining advice and guidance, resolving grievances, reporting wrongdoing, or appealing a decision". The handbook will be published later in 2010. It will describe the mandated responsibilities of the various offices and resources available to staff. It will clarify the role of each resource and assist staff in deciding which entity is best suited to address their concerns.

17. During the current reporting cycle, the Ethics Office handled a total of 308 requests for ethics advice and guidance. As illustrated in figure 6, the 308 requests for advice can be classified as follows: outside activities: 95 (31 per cent); personal investments and assets: 40 (13 per cent); other conflicts of interest: 42 (14 per cent); gifts, hospitality and honours: 58 (19 per cent); and post-employment restrictions: 3 (1 per cent). Enquiries under the employment-related category, totalling 70, represent 22 per cent of all requests for advice and involve staff seeking guidance on how to manage situations that relate to their employment, i.e. allegations of misconduct, career related concerns, and performance appraisal issues. After receiving the concerns of the staff member, the Office either refers the individual to the appropriate authority for assistance or advises on the proper course of action.

Figure 6
Requests for ethics advice by cycle
(August 2006-July 2010)



	Employment-related	Gifts and hospitality	Other conflict of interest	Outside activities	Personal investments and assets	Post-employment restrictions
Aug 2006 - July 2007	38	36	35	34	10	9
Aug 2007 - July 2008	133	72	44	55	30	10
Aug 2008 - July 2009	88	45	70	84	24	4
Aug 2009 - July 2010	70	58	42	95	40	3

18. The overall number of requests for advice from the Ethics Office has remained relatively constant as compared to the previous reporting cycle. While there are decreases in the categories "employment-related" and "other conflicts of interest", notable increases are found in three categories, namely "outside activities", "gifts and hospitality" and "personal investments and assets". The decrease in the "employment-related" enquiries may reflect a great awareness among staff members of the limited scope of the Office mandate.

19. In addition to the advice and guidance provided to Secretariat staff, the Ethics Office responded to a number of enquiries from other United Nations entities on information-sharing, best practices, policies, and ethics advice and guidance. These include the United Nations University (UNU), the United Nations Population Fund (UNFPA), the Office of the United Nations High Commissioner for Refugees (UNHCR), the Office of the High Commissioner for Human Rights (OHCHR), the World Food Programme (WFP), the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the United Nations Framework Convention on Climate Change (UNFCCC), the United Nations Convention to Combat Desertification (UNCCD), the World Intellectual Property Organization (WIPO), the Universal Postal Union (UPU), the United Nations Development Programme (UNDP), the World Health Organization (WHO), the United Nations Office for Project Services (UNOPS), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Children's Fund (UNICEF), the International Civil Aviation Organization (ICAO), the International Atomic Energy Agency (IAEA), the United Nations Research Institute for Social Development and the Joint United Nations Programme on HIV/AIDS (UNAIDS).

B. Training, education and outreach

20. In an effort to reach staff based outside Headquarters, the Director of the Ethics Office visited the United Nations Office at Geneva in February 2010, where he met with the senior management group and staff coordinating council at the

United Nations Office at Geneva. He also met with officials from OHCHR, the Coordinating Committee for International Staff Unions and Associations of the United Nations System (CCISUA) and the Federation of International Civil Servants' Associations (FICSA). In March 2010, he visited the Economic and Social Commission for Asia and the Pacific (ESCAP), where he met with senior management officials and made a town hall presentation to better clarify the role and mandate of the Ethics Office.

21. The Ethics Office carried out several briefing and information sessions, including for consultant experts of the Security Council Subsidiary Organs Branch of the Department of Political Affairs, executive officers on the role of the administering official as stipulated in the new administrative instruction on the disclosure, and storage and disposal of gifts, and to senior managers of the Department of Management on the new administrative instruction on the disclosure, storage and disposal of gifts.

22. In pursuit of its mandated role to develop "standards, training and education on ethics issues" and ensure "annual ethics training for all staff" (see ST/SGB/2005/22), the Ethics Office continued its close collaboration with the Office of Human Resources Management and other offices to carry on and enhance ethics learning activities for staff members at all levels Secretariat-wide. Collaborative efforts focused on the design, adaptation and delivery of ethics training in the form of general and customized workshops, and modules in online and face-to-face format, integrated as appropriate into broader staff learning and development initiatives.

23. The mandatory online learning programme "Integrity Awareness Initiative" (see ST/SGB/2005/17) is accessible in English and French and directed at staff members at all levels. It focuses on core values and on standards of integrity to be observed in the United Nations working environment. Since its launch in 2005, over 29,000 persons have completed the programme, over 8,600 of whom have done so in the current reporting period. Developed by the United Nations Office on Drugs and Crime (UNODC), the programme benefits from ongoing technical innovations to improve and extend its range across duty stations.

24. Delivery of the general workshop entitled "Working Together: Professional Ethics and Integrity in our Daily Work" continued at Headquarters, offices away from Headquarters and other duty stations during the course of the period 2009-2010. Capacity is in place to deliver the workshop in English, French and Spanish. Since its launch in 2006, over 12,500 staff members system-wide have participated in workshops. In the current reporting period, over 2,600 staff members system-wide were accommodated at various sessions of the workshop (the figures are as at 31 July 2010, and subject to confirmation at year-end verification and closure of database). In response to requests, some workshop sessions were specially arranged, customized as necessary or integrated into broader training programmes for field-based staff members at different duty stations. In the period under review, 17 such sessions were organized for groups of staff members of the Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat, OHCHR, the African Union/United Nations Hybrid Operation in Darfur, the United Nations Conference on Trade and Development, the United Nations information centres, the United Nations Interim Force in Lebanon, the United Nations Truce Supervision Organization, the Office of the United Nations Special Coordinator for the Middle

East Peace Process, and the Office of the United Nations Special Coordinator for Lebanon. Budgetary provision and plans are in place for a further schedule of over 40 workshops at Headquarters and offices away from Headquarters through the end of 2010.

25. Committed to increasing the availability of this workshop across duty stations, the Ethics Office, in collaboration with the Office of Human Resources Management, tested a WebEx version of the workshop in July 2010 at the United Nations Office in Geneva for OHCHR staff members in Burundi and Cameroon.

26. Sessions of the customized workshop entitled "Ethics and Integrity in Procurement", a joint initiative of the Ethics Office, the Office of Human Resources Management and the Procurement Division, continued at the United Nations Secretariat during the period 2009-2010. This workshop is mandatory for staff members of the Procurement Division and recommended for others with related responsibilities (e.g. requisitioning, contract management/vendor relations). Over 700 staff members have participated in workshop sessions from its launch until 31 July 2010, 85 of whom participated during the reporting period.

27. During the first half of 2010, the Ethics Office continued its collaboration with the Office of Human Resources Management, the Department of Peacekeeping Operations and the Department of Field Support to provide substantive support and funding for the delivery of an ethics module in the orientation programme for the field-based central review bodies to oversee the field staff rostering process. In a further collaborative initiative, substantive support and funding were provided for the development and the delivery of a one-day customized workshop entitled "Accountability, Ethics and Integrity in our Daily Work" for the re-designed Department of Peacekeeping Operations senior mission administration and resource training programme. The programme was launched in July 2010 at the United Nations Logistics Base Training Centre in Brindisi, Italy, with over 40 participants from a broad range of middle management support functions.

28. The Ethics Office and the Office of Human Resources Management provided advice on the integration of ethics content into online learning programmes developed by the Procurement Division for the launch of its Procurement Training Campus website and by the Department of Management for the United Nations Headquarters Committee on Contracts.

29. Commitment to the integration of ethics training into broader learning initiatives was also reflected in programme modules in orientation sessions for new staff members, junior professional officers and members of the central review bodies, human resources management, supervisory skills and general service staff development.

30. The Ethics Office has undertaken to develop an external website to expand its reach and better communicate the United Nations standards of conduct and provide information on the mandated responsibilities of the Office. It is anticipated that the website will facilitate the community of practice among members of the United Nations Ethics Committee, which include the funds and programmes and members of the United Nations Ethics Network, which include members of the specialized agencies.

31. The Ethics Office and the Office of Human Resources Management monitor feedback to ensure constant updating and adaptation of all ethics training content in line with new policy developments and evolving priorities.

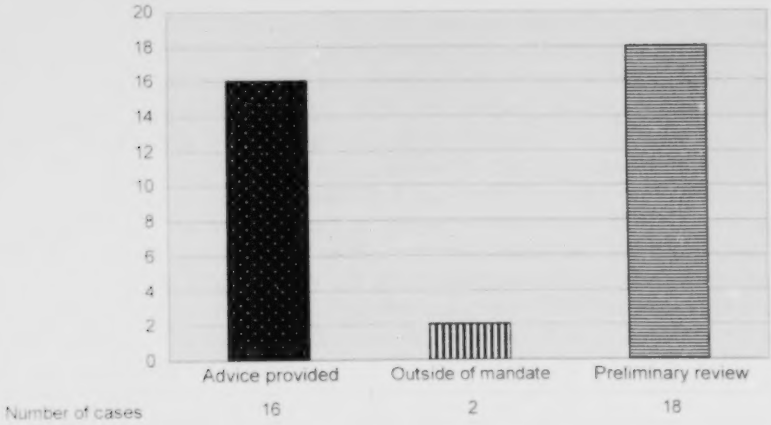
C. Protection of staff against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations

32. Secretary-General's bulletin on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations (ST/SGB/2005/21) entered into force on 1 January 2006. Pursuant to that bulletin, the Ethics Office receives complaints of retaliation and conducts a preliminary review to determine whether the complainant engaged in a protected activity and, if so, whether the protected activity was a contributing factor to the alleged retaliation.

33. From 1 August 2009 to 31 July 2010, the Ethics Office received 36 requests related to protection against retaliation. Eighteen requests were deemed to warrant preliminary review, as reflected in figure 7. The preliminary review process involves a review of documentation submitted by the complainant and fact-finding in order to determine if there is independent and corroborated information in support of the complaint of retaliation. Once a prima facie case has been determined to exist, the policy shifts the burden of proof onto the Organization, requiring the Administration to show that it would have taken the same alleged retaliatory action absent the fact that the individual reported misconduct or cooperated with a duly authorized audit or investigation.

34. The number of requests for protection against retaliation (36 in this reporting cycle) decreased by 40 per cent as compared with the previous reporting cycle, when 64 such requests were received. This decrease may be attributed to a number of factors. The new system of administration of justice has been established with a robust calendar of public hearings with corresponding judgements available to the public on the website. Staff are carefully following the developments in the system and may delay seeking protection until this jurisprudence is more settled. An increasing number of staff sought the assistance of the Office of Ombudsman and Mediation Services to resolve their workplace concerns informally, which could also explain the decrease in the number of requests received by the Ethics Office. The implementation of the capital master plan at Headquarters has dispersed staff to various physical locations, thereby dissuading walk-in service seekers. The lacuna in the policy on protection against retaliation allows the Investigation Division of OIOS to decline to investigate a prima facie case of retaliation referred to it by the Ethics Office. As a result, staff may be sceptical about the ability of the Ethics Office to provide meaningful protection.

Figure 7
Actions taken on requests for protection
(1 August 2009-31 July 2010)



35. Of the 18 cases that warranted a preliminary review, the Ethics Office concluded its review of 8 cases: in 4 cases, it was determined that there was no prima facie case of retaliation, while in 4 other instances, the requests were either withdrawn or abandoned by the complainants. The preliminary review process is still under way in relation to the remaining 10 cases.

36. Of the remaining 18 other requests, 2 were determined to fall outside the scope of the mandate and 16 staff members were provided with advice and guidance regarding the scope and application of the policy and the necessary conditions precedent to the commencement of a preliminary review, as well as the possible corrective measures available in the event that retaliation is established. During the reporting period, one of the requests received by the Ethics Office was related to a request from the Registrar of the United Nations Dispute Tribunal to monitor the situation of staff members who had provided testimony in the course of a case and who had expressed fear of retaliation for their collaboration with the Tribunal. This means that testifying before the Tribunal or collaborating with it would be considered a protected activity, an aspect that is not currently included in the existing policy on protection against retaliation. The Ethics Office is engaged in consultations with relevant offices within the Secretariat to consider revisions to the protection against retaliation policy in the light of recent developments in the internal justice system.

37. In the previous cycle, it was reported that 16 cases remained under review. Of these 16 cases, the Office concluded its preliminary review of 9 cases and determined that there was a prima facie case of retaliation in 1 case, which was subsequently referred to OIOS for investigation. No prima facie case of retaliation was found in the remaining eight cases. In four instances, the requests were either withdrawn or abandoned by the complainants (three of these four were resolved informally through mediation and negotiation). The preliminary review of the remaining three cases is currently in progress. The two cases initiated during the

period 1 August 2007 to 31 July 2008 that were still ongoing at the end of the previous cycle have since been closed with no finding of retaliation.

38. The new internal justice system has raised an issue of grave concern for the Ethics Office: the confidentiality of its work and work product. In a case pending before the United Nations Dispute Tribunal, a former staff member challenged a memorandum from the Ethics Office informing him of the OIOS investigation of his case, which failed to establish retaliation and the concurrence of the Ethics Office with the findings and the conclusions of the investigation report. In the course of its review of the case, the United Nations Dispute Tribunal ordered the production of the OIOS investigation report provided to the Ethics Office, along with supporting documents. The Ethics Office has consistently objected to the release of any confidential OIOS investigation reports to the complainant, as this would have a chilling effect on the ability of the Office to discharge its responsibilities in protection against retaliation cases. It is the view of the Office that if confidential documents such as OIOS reports are released, then third parties who may be able to provide information in support of an individual seeking protection will not come forward for fear of retaliation themselves. Despite the vigorous objections based on the principle of confidentiality, which is fundamental to the effective functioning of an Ethics Office, the United Nations Dispute Tribunal released the OIOS report to the former staff member.

D. Financial disclosure programme

39. The Ethics Office is mandated to administer the financial disclosure programme as a means of managing organizational risks and maintaining and enhancing public trust in the integrity of the Organization.

40. For the 2009 filing cycle (beginning on 1 March 2009), a total of 3,618 staff members were required to file, using the established online financial disclosure filing system. The 2009 filing cycle covered the reporting period from 1 January to 31 December 2008.

41. As at the programme closing date (31 December 2009), a total of 99.61 per cent of staff (or 3,604 participants) had complied with filing obligations. This compliance rate represents a further improvement as compared to the 2008 filing cycle (99.16 per cent or 3,092 staff members). A total of 0.39 per cent (or 14 participants) did not submit their disclosure statements, as compared to 0.83 per cent (26 participants) in the 2008 cycle and 7 per cent (172 participants) in the 2007 cycle. Of these 14 non-compliant cases in the 2009 cycle, seven have been referred to the Office of Human Resources Management for appropriate follow-up action. The Ethics Office has been advised that the Office of Human Resources Management has completed the review of two cases, and the review is ongoing in the remaining five. The other seven non-compliant cases were not referred after it was established that their failure to file was caused by technical reasons or other considerations.

42. The improvement in the compliance rate of the financial disclosure programme may be attributed to a number of factors. These include the tone and the importance established at the beginning of the cycle found in the communication from the Secretary-General to all participants; the good compliance by senior officials at the Under-Secretary-General and Assistant Secretary-General levels; and, the repeated

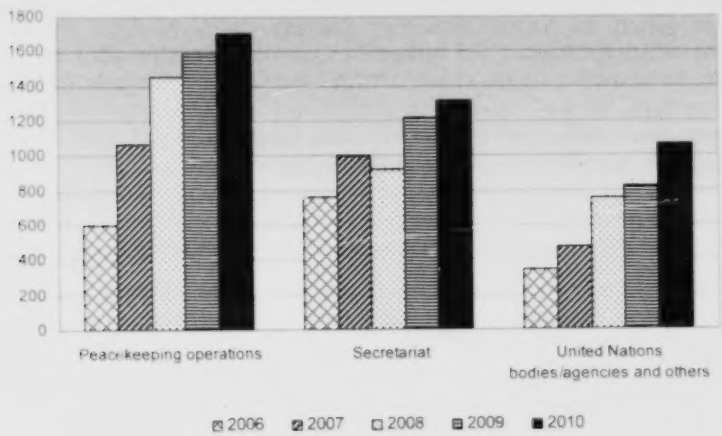
efforts by the Ethics Office to follow up with heads of departments and of participating entities, as well as with individual staff.

43. In addition to the review process, the verification process is conducted at random among participating staff members of all grades and offices, to validate the information disclosed and to ensure completeness of such information. A total of 182 filing staff were selected for the verification process in the 2009 filing cycle.

44. Regarding the 2010 filing cycle (commencing on 1 March 2010), a total of 4,078 staff members were enrolled as at 18 June 2010, representing an increase of 11.3 per cent from the previous cycle. This change may be attributed to increased participation levels of staff from the Secretariat, peacekeeping operations and United Nations entities.

45. Figure 8 presents a comparison of the participation levels between the various filing cycles of the financial disclosure programme, including a breakdown by organizational grouping. Increases were found in the categories: the Secretariat, peacekeeping operations and United Nations bodies/agencies.

Figure 8
Financial disclosure participation by entity and filing year (2006-2010)[a]



	Peacekeeping operations	*Secretariat*[b]	*United Nations bodies/agencies and others*	*Total by year*
2006	603	762	339	1 704
2007	1 062	997	469	2 528
2008	1 449	919	750	3 118
2009	1 584	1 212	822	3 618
2010	1 699	1 314	1 065	4 078

[a] "Filing year" refers to the year in which a disclosure statement or declaration is submitted covering the reporting period from 1 January to 31 December of the prior year. For 2010, the data are as at 18 June 2010.

[b] The grouping "Secretariat" refers to the departments/offices and entities that are listed in ST/SGB/1997/5 and whose budget is covered from the United Nations regular budget.

46. The continued overall increase in the number of participants in the 2010 filing cycle is likely a reflection of a higher level of awareness by programme managers as to the need to reduce organizational risks, manage potential conflicts of interest and enhance trust in the Organization in relation to the performance of official duties and responsibilities by its staff. Over the past five years, the filing population has grown significantly, from 1,704 in 2006 to 3,618 in 2009 and 4,078 as of mid-June 2010. As a result, it is vital to bolster the capacity of the Ethics Office to manage the financial disclosure programme and to expand the capacity of the technical system (related to information technology) to support the effective functioning of the programme.

47. The financial disclosure programme is administered by the Ethics Office to staff in various parts of the United Nations family on a cost-sharing basis. The Ethics Office continues to liaise with other United Nations bodies and agencies that have not yet implemented a financial disclosure programme, or who are in the process of establishing their own financial disclosure programme in order to enhance policy coherence and practices. As at 18 June 2010, the following United Nations entities participate in the programme: UNRWA, the United Nations Institute for Disarmament Research, the United Nations Interregional Crime and Justice Research Institute, UNAIDS, UNCCD, UNHCR, the United Nations Compensation Commission, UNFCCC, the United Nations Institute for Training and Research (UNITAR), and UNU. This represents an increase in the scope of the programme.

48. In its report on human resources management (A/63/526), the Advisory Committee on Administrative and Budgetary Questions recommended that in future reports on the activities of the Ethics Office, the Secretary-General provide clear and precise data, by duty station, on the number of individuals covered by the programme, the number of individuals who have complied with their filing obligations, the number of individuals who have failed to comply with those obligations and the reasons for their failure to comply. The table on the 2009 financial disclosure programme compliance level provides the requested information in respect of the 2009 filing year, by entity within the United Nations Secretariat.

49. In terms of the reasons for failure to comply, communications received from certain participants indicated a reluctance to comply based on the perception by the participants that they were not required to participate in the programme. The Ethics Office was not privy to reasons in cases where participants did not establish any form of communication with the Office and failed to comply by the close of the programme.

Table
2009 financial disclosure programme compliance level

United Nations entity	*Required filers*	*Completed filings*	*Non-compliant(s)*
United Nations Secretariat			
United Nations Chief Executives Board for Coordination	2	2	0
Counter-Terrorism Committee Executive Directorate	4	4	0
Department for General Assembly and Conference Management	27	27	0
Department of Economic and Social Affairs	58	58	0
Department of Management	220	220	0
Department of Political Affairs, including special political missions	131	128	3

United Nations entity	*Required filers*	*Completed filing*	*Non-compliance*
Department of Public Information	33	33	0
Department of Safety and Security	10	10	0
Economic and Social Commission for Asia and the Pacific	39	39	0
Economic and Social Commission for Western Asia	20	20	0
Economic Commission for Africa	76	76	0
Economic Commission for Europe	10	10	0
Economic Commission for Latin America and the Caribbean	55	55	0
Ethics Office	10	10	0
Executive Office of the Secretary-General	23	23	0
Office for Disarmament Affairs	7	7	0
Office for the Coordination of Humanitarian Affairs	23	23	0
Office of Internal Oversight Services	13	13	0
Office of Legal Affairs	20	20	0
Office of Special Representative of Secretary-General for Children and Armed Conflicts	1	1	0
Office of the High Commissioner for Human Rights	15	15	0
Office of the Ombudsman	2	2	0
Office of the Special Adviser on Africa	1	1	0
Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States	4	4	0
Office of Information and Communications Technology	22	22	0
Peacebuilding Support Office	3	3	0
Regional Commissions New York Office	1	1	0
United Nations Joint Staff Pension Fund	56	55	1
United Nations Conference on Trade and Development	24	24	0
United Nations Office at Geneva	86	86	0
United Nations Office at Nairobi	36	36	0
United Nations Office at Vienna	14	14	0
United Nations Office on Drugs and Crime	44	44	0
United Nations Scientific Committee on the Effect of Atomic Radiation	1	1	0
Research and training institutes	9	9	0
International tribunals and verification commissions	112	112	0
Subtotal (excluding peacekeeping operations)	**1 212**	**1 208**	**4**
Peacekeeping operations	**1 584**	**1 575**	**9**
United Nations bodies/agencies and others	**822**	**821**	**1**
Total	**3 618**	**3 604**	**14**

50. The number of senior United Nations officials (at the Assistant Secretary-General level and above) participating in the voluntary public disclosure programme remained the same in the reporting period as in 2008: 149. This most likely reflects

the continued high level of awareness and acceptance of the programme. The 2009 voluntary public disclosures of the Under-Secretaries-General and Assistant Secretaries-General are posted on the website of the Secretary-General.

51. In its report (A/62/7, para I.17), the Advisory Committee on Administrative and Budgetary Questions recommended that the General Assembly request the Secretary-General to conduct an in-depth analysis of the relative advantages and disadvantages, including costs, of conducting the review in-house as compared to the current outsourcing arrangements. Such an analysis was conducted during the period 2009-2010. The outcome of the analysis and related considerations regarding the future directions of the financial disclosure programme are presented in section V of the present report.

E. Standard-setting and policy support

52. Developing ethical standards is a key function of the Ethics Office, as stipulated in the Secretary-General's bulletin on the establishment of the Office (ST/SGB/2005/22).

53. The Ethics Office provided advice to the Procurement Division in its revision of the Procurement Manual on issues relating to ethics and integrity in the procurement process. It also assisted the Procurement Division in developing the standard operating procedures for the Senior Vendor Review Committee during its pilot phase from July 2009 to June 2010. The Office advised the Procurement Division on the suitability of external ethics and compliance experts upon its request on a case-by-case basis.

54. The Ethics Office worked with the Department of Management on a number of revisions on existing standards and on the introduction of new standards, including those relating to conflicts of interest, for the purpose of the Staff Regulations and the Staff Rules. It contributed to the revision of chapter I of the United Nations Staff Rules.

55. The Ethics Office provided comments to the United Nations Joint Staff Pension Fund on the development of its policy on gifts and hospitality, and on procedures on personal securities to ensure compliance with overall United Nations standards and ethics policies.

56. The Ethics Office participated in the review of the Secretary-General's bulletin on financial disclosure and declaration of interest statements (ST/SGB/2006/6).

57. The Ethics Office was a key player in the development of a new administrative instruction on reporting, retaining and disposing of honours, decorations, favours, gifts or remuneration from governmental and non-governmental sources (ST/AI/2010/1), which was issued in January 2010. The objective of the instruction is to update the relevant standards and provide detailed guidance on ways to manage situations where an honour, decoration, favour, gift or remuneration has been offered or presented.

58. The Ethics Office contributed to the revision of the Secretary-General's bulletin on the Nobel Peace Prize Memorial Fund (ST/SGB/2010/8), which aims to expand the coverage of the Fund and its funding sources.

59. The Ethics Office continued to provide functional leadership to the United Nations Ethics Committee through the role of its Director as the Committee Chair, particularly in reviewing policies and setting standards and the directions for ethics activities. The Office provides full substantive coordination and support as the secretariat to the Committee. The Director of the Ethics Office continues to undertake the case review function under section 4.7 of ST/SGB/2007/11, as the Chair of the United Nations Ethics Committee. Details regarding the work of the Ethics Committee are covered in section IV of the present report.

IV. United Nations Ethics Committee and Ethics Network

60. The United Nations Ethics Committee was established by Secretary-General's bulletin ST/SGB/2007/11, which came into force on 1 December 2007. The main responsibilities of the Committee are to establish a unified set of ethical standards and policies of the United Nations Secretariat and of the separately administered organs and programmes, and to consult on certain important and particularly complex cases and issues having United Nations system-wide implications raised by any Ethics Office or the Chair of the Ethics Committee.

61. The United Nations Ethics Committee consists of the heads of the Ethics Offices of the separately administered organs and programmes of the United Nations and the Ethics Office of the United Nations Secretariat. As at 30 July 2010, the Committee comprises the following membership: United Nations Secretariat Ethics Office, UNDP, UNICEF, UNFPA, UNOPS, WFP, UNRWA and UNHCR. Upon the request of the following entities and in accordance with relevant provisions of the above-mentioned Secretary-General's bulletin (ST/SGB/2007/11), the Ethics Office of the United Nations Secretariat delivers ethics services for the United Nations Institute for Disarmament Research, the United Nations Research Institute for Social Development, and United Nations Interregional Crime and Justice Research Institute.

62. The Committee is chaired by the head of the Ethics Office of the United Nations Secretariat, who provides functional leadership to all ethics officers of the separately administered organs and programmes, in order to promote the building and developing of capacity, including adequate levels of professionally qualified resources; and ensure adherence to consistent methodology in the delivery of ethics-related services.

63. During the period from 1 August 2009 to 31 July 2010, the United Nations Ethics Committee met in 10 sessions.

64. One of the key priorities of the United Nations Ethics Committee for 2009 was to provide substantive and technical support to the Secretary-General in relation to his submission, in September 2009, of the system-wide Code of Ethics for United Nations personnel to the General Assembly for its consideration and endorsement. The Committee continued to promote the core values and principles espoused in the Code and other relevant documents with a view to fostering a culture of ethics and integrity in the Organization, through a broad range of activities, including standard development, exchange of information, outreach, briefings and training activities.

65. The Committee continued to exchange information on policy development and implementation with a view to harmonizing ethical standards and fostering a

coherent approach in applying such standards and policies in the United Nations. The Committee also held discussions on policy coordination in the areas of financial disclosure and protection against retaliation for reporting misconduct or cooperating with authorized audits.

66. During the reporting period, the Committee developed a policy framework on protection against retaliation for reporting misconduct or cooperating with authorized audits that can serve as a guide for member organizations. Developed on the basis of a thorough review of such policies of different countries, international institutions and United Nations agencies and successful practices, the policy framework embraced key components of an effective policy on protection against retaliation. The policy framework is under review within the Secretariat.

67. The United Nations Ethics Committee held extensive discussions on the implementation of financial disclosure policies, in order to learn from each other's experience. The main goals for an effective financial disclosure programme were discussed, namely: (a) to educate staff and raise awareness about personal conflicts of interest, arising from financial holdings and outside interests; (b) to encourage staff to get advice before taking action that could result in a conflict of interest; (c) to enhance risk assessment and risk mitigation efforts, by recognizing, appreciating and resolving personal conflicts of interest; and (d) to enhance personal accountability. The common understandings and methodology will allow member organizations to further improve programme implementation.

68. During the reporting period, the Chairperson consulted with the Committee on a case from an individual staff member of a separately administered programme who requested a review of his or her case by the Committee Chair under the terms of section 4.3 of Secretary-General's bulletin ST/SGB/2007/11 regarding allegations of retaliation for reporting misconduct or cooperating with duly authorized audits or investigations. Following consultation with the Committee, the Chair proceeded to undertake an independent review of the case. Subsequently, the Chair recommended actions to be taken by the concerned programme.

69. As mandated in Secretary-General's bulletin ST/SGB/2007/11, the Ethics Committee undertook a review of the annual reports of the Ethics Offices of the United Nations Secretariat and the separately administered organs and programmes and made recommendations as appropriate. The Chair of the Committee has been informed that so far all the recommendations have been accepted and implemented by the executive heads of concerned organizations.

70. In his capacity as the Chair of the Chief Executives Board for Coordination, the Secretary-General has promoted system-wide collaboration on ethics-related issues with a specific focus on coherent application of ethics standards and policies throughout the United Nations family, including United Nations specialized agencies and other interested entities. Towards this end, the United Nations Ethics Committee extended an invitation to ethics offices of United Nations specialized agencies and selected international financial institutions to participate in the first United Nations system-wide ethics meeting. The first session of the United Nations Ethics Network was convened in Rome, on 21 June 2010, with the participation of 21 United Nations entities, namely: the United Nations Secretariat, UNDP, UNFPA, UNHCR, UNICEF, UNOPS, UNRWA, WFP, FAO, IAEA, the International Monetary Fund, the International Telecommunication Union, the Pan-American Health Organization (PAHO), the United Nations Educational, Scientific and

Cultural Organization, the United Nations Industrial Development Organization, the Universal Postal Union, the World Health Organization, WIPO, the World Bank, the World Meteorological Organization (WMO) and the World Trade Organization. The participating agencies agreed to establish a United Nations system-wide network, consisting of ethics officers and related professionals. Meeting once or twice annually, this community of interest will be structured as a professional affiliation of international ethics practitioners. Examples of the anticipated collaborative output of the United Nations Ethics Network include the exchange of successful practices, the issuance of model guidance, the exchange of materials in areas such as surveys, ethics training, financial disclosure, ethics advisory services, outreach and ethics communication, internal benchmarking services, peer review and programme assessment, career development and strategic planning.

V. Future directions of the financial disclosure programme

71. Pursuant to General Assembly resolution 60/254, an external firm was engaged to provide the review services required under the financial disclosure programme. In its report (A/62/7, para I.17), the Advisory Committee on Administrative and Budgetary Questions recommended that the General Assembly request the Secretary-General to conduct an in-depth analysis of the relative advantages and disadvantages, including costs, of conducting the review in-house as compared to the current outsourcing arrangements.

72. For this purpose, an internal review of the alternatives was conducted by the Ethics Office in early 2009 based on its experience of the first two years (2007-2008) of administering the financial disclosure programme. Following internal discussion and review, it was determined that an independent analysis conducted by a third party would be necessary to ensure that all aspects of the programme were thoroughly examined.

73. Following a competitive process and related budgetary review, a third-party consulting firm was selected to conduct a study of the advantages and disadvantages of reverting financial disclosure functions in-house. The study was conducted in the first half of 2010.

74. In terms of the methodology, the study reviewed the current status of the programme and identified the requirements for a financial programme to run effectively. On this basis, it examined the various alternatives, and relative advantages and disadvantages of each alternative. The study bears in mind the institutional relevance, sustainability, the confidentiality and information security aspects of the programme as well as its cost-effectiveness.

75. The study is a comparative presentation of the financial, general, operational and technical advantages and disadvantages of running the programme in-house as opposed to outsourcing. The study also explores the options of using the UNFPA financial disclosure system or redesigning the current system in running the financial disclosure system application. The study was not meant to provide recommendations but to objectively set out a range of options.

76. Sources of information included interviews and document review. Persons interviewed included Ethics Office staff associated with the Secretariat financial disclosure programme; Inter-American Development Bank staff associated with its

own financial disclosure programme; UNFPA staff associated with its own financial disclosure programme and financial disclosure system; UNDP information technology staff associated with its own financial disclosure system; United Nations Office of Information and Communications Technology staff; Neva Group staff associated with the administration and development of the financial disclosure system.

77. Before setting out the alternatives, the study identified the requirements needed to run a fully functional financial disclosure programme, in terms of both operational requirements (such as filing, review and verification) and technical information technology system-related requirements, including information security and hosting application. Three main components are identified: review and verification of financial disclosure filings; financial disclosure system administration; and reporting. Review and verification is the process whereby the assets and outside interests of staff members are analysed in the context of their duties and responsibilities to the United Nations with a view to identifying and managing any actual or apparent conflict of interest. Financial disclosure system administration refers to the technical processes by which these reviews are conducted using computer applications. Reporting is a general term encompassing all those activities through which the work of the Ethics Office is presented to stakeholders. The first two components are currently outsourced to a private accounting firm, PriceWaterhouseCoopers pursuant to the General Assembly's decision in 2005.

78. On the review and verification function, the study compared two options: continuation of outsourcing of the review and verification activities against reverting the review and verification activities in-house.

79. On the financial disclosure system application, there were four options: continuation of the current outsourcing arrangement; redesigning and reverting the FDS in-house; customizing and using the UNFPA financial disclosure system; and procuring a redesigned financial disclosure system from the current financial disclosure system contractor. The options in either category were compared on four levels. Firstly, on a financial level, the study looked at cost effectiveness in the short term and in the longer term and at sustainability. Secondly, on a general level, the possible impact of insourcing on the overall organizational ethics culture and reform effort and other non-financial costs and benefits were juxtaposed. On the operational sphere, the analysis looked at the institutional relevance of the financial disclosure programme, particularly in fostering the ethical culture of the Organization; the provision of advice and guidance to United Nations staff in managing conflicts of interest; confidentiality and security of information; training and capacity-building requirements and the possible impact of the reversion on United Nations inter-agency collaboration and coordination, especially on those United Nations funds and programmes that are currently participating in the financial disclosure programme administered by the Secretariat. Lastly, technically the information management and information technology requirements were compared. Each alternative analysis also contained a preliminary description of the transition requirements.

80. Following the completion of the study, the Secretariat has set up a high-level advisory group consisting of senior personnel from various departments and offices, including OICT, Department of Management (budget and human resources matters),

Office of Legal Affairs, Executive Office of the Secretary General, and the Ethics Office. This advisory group will examine the advantages and the disadvantages of each alternative, as well as their implications, bearing in mind the need to protect the interests of the United Nations and manage risks facing the Organization, while being able to protect the confidentiality and the privacy of staff information. This careful examination will help ensure that any future direction of the financial disclosure programme will provide a balanced approach.

81. The review and guidance of the senior advisory group will be vital in helping the Secretariat recommend appropriate and viable options to the General Assembly in its consideration of the future directions of the financial disclosure programme. The Secretariat is prepared to provide its full support and further clarification as may be required.

VI. Conclusion and recommendations

82. The Ethics Office must continue to be an active player and partner in the ongoing process of United Nations management reform, given the clear imperative to promote ethical values and foster a culture of ethics, integrity and accountability in the Organization. In order for its role and impact to be felt, the Ethics Office shall continue to reach out to both staff and management and engage itself in a continuing constructive dialogue with all players. Outreach, education, and training will remain high on the agenda and list of priorities of the Ethics Office, as an effective way to strengthen its preventive role and to foresee and manage ethical risks facing the United Nations.

83. In paragraph 66 of his previous report on the activities of the Ethics Office (A/64/316), the Secretary-General identified a serious lacuna in the Organization's policy of protection against retaliation arising out of a case of prima facie retaliation referred to OIOS for investigation, which OIOS declined to investigate. Given the operational independence of OIOS, it does have the discretionary authority to decide whether to investigate a matter, as was confirmed by the Office of Legal Affairs. If the Ethics Office determines that there is a prima facie case of retaliation, it refers the matter to OIOS for investigation. The primary purpose of an investigation of a prima facie case of retaliation should be to give the Administration the opportunity to provide by clear and convincing evidence that it (i.e. the Administration) would have taken the same action absent the protected activity and thus establish whether retaliation did or did not actually occur. In response to paragraph 55 of the report of the Advisory Committee on Administrative and Budgetary Questions (A/64/518), in order to address the identified lacuna in the implementation of the policy, whereby OIOS can decline to investigate a referred case of prima facie retaliation based on its operational independence, **the General Assembly may wish to consider two options: (i) amending the mandate of OIOS to include a specific obligation to investigate all prima facie cases of retaliation referred to it under the terms of Secretary-General's bulletin ST/SGB/2005/21, as a means for the Administration to discharge the burden of proof; or (ii) amending the provisions of Secretary-General's bulletin ST/SGB/2005/21 to allow for the establishment of an alternative investigating mechanism in circumstances where, owing to a conflict of interest, OIOS cannot investigate a matter for which the Ethics Office has determined that a prima facie case of retaliation exists, or where, in its own discretion, OIOS decides not to investigate such a matter**. In the rare circumstances where the alternative investigative mechanism

must be deployed, and to preserve the independence and flexibility of the Ethics Office, adequate funding resources must be made available. An option may be to request the particular office or entity within which the alleged retaliation is said to have occurred to bear the costs of an independent investigation undertaken under the authority of the Ethics Office. However, this arrangement may become complicated when more than one office or entity are involved. Another option is to provide the Ethics Office access to a funding source that can be made available when and if the need for an alternative investigative mechanism arises.

84. In order for the Ethics Office to function efficiently and to maintain credibility with all staff members in the Organization, the principle of confidentiality must be respected in all aspects of its work. **It would be necessary to amend the terms of reference of the Ethics Office to ensure that the Office may preserve and maintain the complete confidentiality of all information relating to the performance of its operational mandates.** Consultations on this subject have been initiated within the Secretariat.